

United States District Court

NORTHERN

DISTRICT OF

UNITED STATES OF AMERICA

E-FILING

v.

Carlos Steve BURGUENO

2008 JUL 31 P 2:52
CALIFORNIA

RICHARD W. WICKING
CLERK
U.S. DISTRICT COURT
N.D. CALIFORNIA

PVT

08-70495
CRIMINAL COMPLAINT

CASE NUMBER:

(Name and Address of Defendant)

I, the undersigned complainant being duly sworn state the following is true and correct to the best of my knowledge and belief. On a date unknown but no later than, July 2, 2008, in San Benito County in the Northern District of California defendant(s)

Unlawfully re-entered and was found in the United States after deportation, without the permission of the Attorney General

in violation of Title 8 United States Code, Section(s) 1326
I further state that I am a(n) Deportation Officer and that this complaint is based on the following
Official Title
facts:

SEE ATTACHED AFFIDAVIT

PENALTIES: \$250,000.00 fine, twenty years imprisonment and \$100.00 special assessment fee and a Term of Supervised Release up to three years.

Requested bail: Issue no bail warrant.

APPROVED AS TO FORM:

ASSISTANT UNITED STATES ATTORNEY

Continued on the attached sheet and made a part hereof: Yes No

DOCUMENT NO.	CSA's INITIALS
1	
DISTRICT COURT CRIMINAL CASE PROCESSING	

Sworn to before me and subscribed in my presence,

July 31, 2008
Date

at San Jose, California
City and State

Howard R. Lloyd
UNITED STATES MAGISTRATE JUDGE
Name & Title of Judicial Officer

Darlene V. Franklin
Signature of Judicial Officer

RE: Carlos Steve BURGUENO

A 11 981 417

I am a Deportation Officer of the United States Department of Homeland Security, Immigration and Customs Enforcement (ICE). I have been employed by this agency, U.S. Customs & Border Protection and the former Immigration and Naturalization Service (INS), since October 1, 2002. I am currently assigned to the Criminal Alien Program at the San Jose, California Sub-Office. In such capacity, I have reviewed the official immigration "A-File" relating to the above named defendant, which attests to the following:

- (1) The DEFENDANT, Carlos Steve BURGUENO, is a (57) year-old divorced male whose Date of Birth is currently understood to be February 17, 1951. He is a citizen and native of Mexico as substantiated by sworn statements made to that effect by the DEFENDANT on the following dates: August 13, 1998, March 16, 2001, June 12, 2007 and July 2, 2008;
- (2) The DEFENDANT has been assigned Alien Registration number of A 11 981 417, FBI number of 872547H, California Criminal State ID Number of A02991422 and PFN Number AUP504;
- (3) On May 12, 1987, the DEFENDANT was convicted in the Superior Court of California/County of Santa Clara, for the offense of: POSSESSION OF COCAINE, a felony, in violation of California Health and Safety Code Section 11350(a), for which the DEFENDANT was sentenced to (9) months in jail. This offense is defined as an aggravated felony under Title 8, United States Code, Section 101(a)(43)(B);
- (4) On December 9, 1991, the DEFENDANT was convicted in the Superior Court of California/County of Imperial, for the offense of: PETTY THEFT W/ PRIORS, a felony, in violation of California Penal Code Section 666, for which the DEFENDANT was sentenced to (3) years in jail;
- (5) On August 6, 1993, the DEFENDANT was convicted in the Superior Court of California/County of Fresno, for the offense of: BURGLARY: IN THE 2ND DEGREE, a felony, in violation of California Penal Code Section 459, for which the DEFENDANT was sentenced to (1) year and (4) months in jail;
- (6) On October 7, 1996, the DEFENDANT was convicted in the United States District Court, Southern District of California, for the offense of: ILLEGAL RE-ENTRY AFTER REMOVAL/DEPORTATION, a felony, in violation of Title 8 USC Section 1326, for which the DEFENDANT was sentenced to (24) months in jail initially. Due to a parole violation, this DEFENDANT was sentenced to an additional (24) months in jail;

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- (7) On July 25, 1997, the DEFENDANT was determined to be unlawfully present in the United States by the INS District Director, San Diego, California, and ordered removed from the United States to Mexico;
- (8) On January 20, 1998, the DEFENDANT was convicted in the Superior Court of California/County of Santa Clara, for the offense of: POSSESSION OF A CONTROLLED SUBSTANCE, a felony, in violation of California Health and Safety Code Section 11377(a), for which the DEFENDANT was sentenced to (4) months in jail;
- (9) On September 18, 1998, the DEFENDANT was determined to be unlawfully present in the United States by the INS Acting District Director, El Centro, California, and ordered removed from the United States to Mexico;
- (10) On March 16, 2001, the DEFENDANT was determined to be unlawfully present in the United States by the INS District Director, El Paso, Texas, and ordered removed from the United States to Mexico;
- (11) On October 4, 2001, the DEFENDANT was convicted in the Superior Court of California/County of San Benito, for the following misdemeanor offenses: DISORDERLY CONDUCT, in violation of California Penal Code Section 647(f) and TRESPASSING:REFUSING TO LEAVE PROPERTY, in violation of California Penal Code Section 602(n), for which the DEFENDANT was sentenced to (25) days in jail;
- (12) On April 9, 2002, the DEFENDANT was convicted in the Superior Court of California/County of Imperial, for the following violations: OBSTRUCTING A PUBLIC OFFICER, a misdemeanor, in violation of California Penal Code Section 148(a)(1) and THREATENING CRIME W/INTENT TO TERRORIZE, a felony, in violation of California Penal Code Section 422, for which the DEFENDANT was sentenced to (240) days in jail;
- (13) On July 14, 2004, the DEFENDANT was convicted in the Superior Court of California/County of Santa Clara, for the offense of: USE/UNDER THE INFLUENCE OF A CONTROLLED SUBSTANCE, a misdemeanor, in violation of California Health and Safety Code Section 11550(a), for which the DEFENDANT was sentenced to (90) days in jail;
- (14) On November 15, 2005, the DEFENDANT was convicted in the Superior Court of California/County of Santa Clara, for the offense of: DISTURBING THE PEACE BY FIGHTING, LOUD NOISE , OR OFFENSIVE WORDS, a misdemeanor, in violation of California Penal Code Section 415, for which the DEFENDANT was sentenced to (1) day in jail;

RE: Carlos Steve BURGUENO

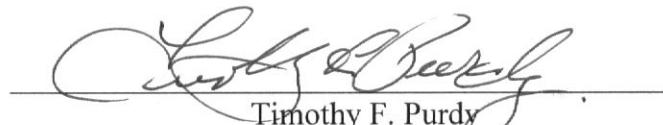
A 11 981 417

- (15) On June 1, 2006, the DEFENDANT was convicted in the Superior Court of California/County of Santa Clara, for the offense of: USE/UNDER THE INFLUENCE OF A CONTROLLED SUBSTANCE, a misdemeanor, in violation of California Health and Safety Code Section 11550(a), for which the DEFENDANT was sentenced to (180) days in jail;
- (16) On January 4, 2007, the DEFENDANT was convicted in the Superior Court of California/County of Santa Clara, for the offense of: USE/UNDER THE INFLUENCE OF A CONTROLLED SUBSTANCE, a misdemeanor, in violation of California Health and Safety Code Section 11550(a), for which the DEFENDANT was sentenced to (90) days in jail;
- (17) On June 11, 2007, the DEFENDANT was determined to be unlawfully present in the United States by the CBP Chief of Operations, Calexico, California, and ordered removed from the United States to Mexico vis-à-vis an Expedited Removal (ER);
- (18) On June 12, 2007, the DEFENDANT was determined to be unlawfully present in the United States by the ICE Field Office Director, Imperial, California, and ordered removed from the United States to Mexico;
- (19) On January 10, 2008, the DEFENDANT was convicted in the Superior Court of California/County of Santa Clara, for the offense of: USE/UNDER THE INFLUENCE OF A CONTROLLED SUBSTANCE, a misdemeanor, in violation of California Health and Safety Code Section 11550(a), for which the DEFENDANT was sentenced to (180) days in jail;
- (20) The DEFENDANT, on a date unknown, but no later than July 2, 2008, in San Benito County in the Northern District of California, was found to be unlawfully present in the United States, after prior arrests and removals/deportations, without the permission of the Attorney General or the Secretary of Homeland Security, in violation of Title 8, Section 1326. On July 2, 2008, the DEFENDANT was interviewed by Immigration Enforcement Agent Joshua Arambulo at the San Benito County Jail, in Hollister, CA, and, during the interview, the DEFENDANT was read his **Miranda** rights in the English language. The DEFENDANT declined to invoke his **Miranda** rights and provided a written sworn statement attesting to his alienage as both: a Mexican citizen and national;

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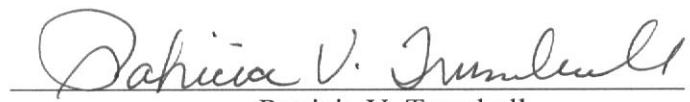
A 11 981 417

- (21) The DEFENDANT'S official A-File does not contain any record or indication that he either requested or received permission from the Secretary of the Department of Homeland Security or the Attorney General of the United States to reenter the United States;
- (22) On July 2, 2008, the DEFENDANT'S fingerprints were taken as part of the standard booking procedures. A latent print examiner at the Santa Clara County Sheriff's Department compared those fingerprints with fingerprints of Carlos Steve BURGUENO (A#11 981 417) on official documents in his Administrative File. The latent print examiner determined that the fingerprints were identical.
- (23) Based on the above stated information, this Officer believes there is sufficient probable cause that the Defendant is present within the United States in violation of Title 8, United States Code, Section 1326.



Timothy F. Purdy
Deportation Officer
Immigration and Customs Enforcement

Subscribed and sworn to before me this 31 day of July, 2008



Patricia V. Trumbull
UNITED STATES MAGISTRATE JUDGE